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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAFAYETTE-OPELOUSAS DIVISION

PAMELA BALLBACK

*

CIVIL ACTION NO. 08-0343

VERSUS

*

JUDGE DOHERTY

**COMMISSIONER OF SOCIAL
SECURITY**

*

MAGISTRATE JUDGE HILL

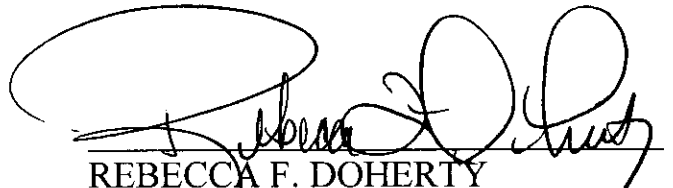
JUDGMENT

This matter was referred to United States Magistrate Judge C. Michael Hill for Report and Recommendation. After an independent review of the record, and noting the absence of any objections, this Court concludes that the Report and Recommendation of the Magistrate Judge is correct and adopts the findings and conclusions therein as its own.

Accordingly, **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that the Commissioner's decision is **REVERSED** and **REMANDED** to the Commissioner for further administrative action pursuant to the fourth sentence of 42 U.S.C. § 405(g). This includes, but does not limit, sending the case to the hearing level with instructions to the Administrative Law Judge to obtain a consultative evaluation on claimant's impairments of sleep apnea and daytime sleepiness secondary to medications, as well as any other side effects from claimant's

medications. Claimant shall be afforded the opportunity to submit additional evidence and to testify at a supplemental hearing.¹

Lafayette, Louisiana, this 16 day of April, 2009.


REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE

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¹ Any judgment entered herewith will be a "final judgment" for purposes of the Equal Access to Justice Act (EAJA). See, *Richard v. Sullivan*, 955 F.2d 354 (5th Cir. 1992) and *Shalala v. Schaefer*, 509 U.S. 292 (1993).